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August 16, 2012

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E-FILED

Ms. Victoria Rutson, Esq.  
Environmental Analysis Chief  
Surface Transportation Board  
395 E Street, SW, Room 1106  
Washington, DC 20423

ENTERED  
Office of Proceedings  
August 16, 2012  
Part of  
Public Record

Re: STB Docket No. AB 6 (Sub-No. 485X), BNSF Railway  
Company -- Abandonment Exemption -- in McKinley County,  
New Mexico

Dear Ms. Rutson:

On August 10, 2012, BNSF Railway Company ("BNSF") filed with  
the Board its Environmental and Historic Reports in the above-  
captioned matter. Attached please find the additional response  
BNSF received from the New Mexico Environmental Department.

Sincerely,

A handwritten signature in black ink that reads "Karl Morell".

Karl Morell  
Of Counsel



**NEW MEXICO  
ENVIRONMENT DEPARTMENT**

*Office of the Secretary*

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**DAVE MARTIN**  
Cabinet Secretary  
**BUTCH TONGATE**  
Deputy Secretary

August 14, 2012

BNSF Railway  
John A. Sims, CP, Paralegal  
2500 Lou Menk Dr – AQB-3  
Fort Worth, TX, 76131  
[john.sims@bnsf.com](mailto:john.sims@bnsf.com)

RESPONSE BY EMAIL

**RE: Abandonment of rail line in McKinley County, NM.**

Dear Mr. Sims:

Your letter regarding the above named project was received in the New Mexico Environment Department (NMED) and was sent to various Bureaus for review and comment. Comments were provided by the Surface Water Quality Bureau, Ground Water Quality Bureau and Air Quality Bureau and are as follows.

**Surface Water Quality Bureau**

The U.S. Environmental Protection Agency (USEPA) requires National Pollutant Discharge Elimination System (NPDES) Construction General Permit (CGP) coverage for storm water discharges from construction projects (common plans of development) that will result in the disturbance (or re-disturbance) of one or more acres, including expansions, of total land area. Because this project may exceed one acre (including staging areas, etc.), it may require appropriate NPDES permit coverage prior to beginning construction (small, one - five acre, construction projects may be able to qualify for a waiver in lieu of permit coverage - see Appendix C). If, as stated in the referenced document, this project entails only removal of rails and ties with no disturbance of the roadbed, and the project otherwise disturbs less than one acre (e.g., access roads, etc.), then an NPDES permit is not required.

Among other things, this permit requires that a Storm Water Pollution Prevention Plan (SWPPP) be prepared for the site and that appropriate Best Management Practices (BMPs) be installed and maintained both during and after construction to prevent, to the extent practicable, pollutants (primarily sediment, oil & grease and construction materials from construction sites) in storm water runoff from entering waters of the U.S. This permit also requires that permanent stabilization measures (revegetation, paving, etc.), and permanent storm water management measures (storm water detention/retention structures, velocity dissipation devices, etc.) be implemented post

construction to minimize, in the long term, pollutants in storm water runoff from entering these waters. In addition, permittees must ensure that there is no increase in sediment yield and flow velocity from the construction site (both during and after construction) compared to pre-construction, undisturbed conditions (see Subpart 9.4.1.1)

You should also be aware that EPA requires that all "operators" (see Appendix A) obtain NPDES permit coverage for construction projects. Generally, this means that at least two parties will require permit coverage. The owner/developer of this construction project who has operational control over project specifications, the general contractor who has day-to-day operational control of those activities at the site, which are necessary to ensure compliance with the storm water pollution plan and other permit conditions, and possibly other "operators" will require appropriate NPDES permit coverage for this project.

The CGP was re-issued effective February 16, 2012. The CGP, Notice of Intent (NOI), Fact Sheet, and Federal Register notice can be downloaded at:  
<http://cfpub.epa.gov/npdes/stormwater/cgp.cfm>

#### **Ground Water Quality Bureau**

GWQB staff reviewed the above-referenced letter as requested, focusing specifically on the potential effect to ground water resources in the area of the proposed projects.

The letter states that BNSF Railway Company is proposing to abandon 5.11 miles of rail line between Mileposts 14.50 and 19.61 north of Defiance in McKinley County. The proposed abandonment will include the removal of rails, ties and one bridge on the line; however the railroad right of way, ballast and culverts will remain in place.

The abandonment project is not expected to have any adverse impacts on ground water quality in the area of the project. However, implementation of the project may involve the use of heavy equipment, thereby leading to a possibility of contaminant releases (e.g., fuel, hydraulic fluid, etc.) associated with equipment malfunctions. The GWQB advises all parties involved in the project to be aware of notification requirements for accidental discharges contained in 20.6.2.1203 NMAC. Compliance with the notification and response requirements will further ensure the protection of ground water quality in the vicinity of the project.

#### **Air Quality Bureau**

The Air Quality Bureau has evaluated the information submitted with respect to the proposed BNSF Railway Company Line Abandonment project in McKinley County, New Mexico. McKinley County, NM is currently considered to be in attainment with all New Mexico and National Ambient Air Quality Standards.

To ensure air quality standards are met, applicable local or county regulations requiring noise and/or dust control must be followed; if none are in effect, controlling construction-related air quality impacts during projects should be considered to reduce the impact of fugitive dust and/or noise on community members.

Potential exists for temporary increases in dust and emissions from earthmoving, construction equipment and other vehicles. However, the increases should not result in non-attainment of air quality standards. Dust control measures should be taken to minimize the release of particulates due to vehicular traffic, construction, drilling procedures and reclamation activities. Areas

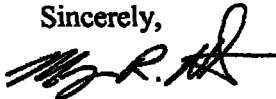
disturbed by the construction activities, within and adjacent to the project area should be reclaimed to avoid long-term problems with erosion and fugitive dust.

All asphalt, concrete, quarrying, crushing and screening facilities contracted in conjunction with the proposed project must have current and proper air quality permits. For more information on air quality permitting and modeling requirements, please refer to 20.2.72 NMAC.

If air quality permits are required for the proposed action, permits will need to be administered by the New Mexico Environment Department (NMED).

I hope this information is helpful to you.

Sincerely,

A handwritten signature in black ink, appearing to read "M.R. Nelson", with a stylized flourish at the end.

Morgan R. Nelson  
Environmental Impact Review Coordinator  
NMED File Number: EIR 3753